

**REMARKS OF U.S. REP. EDWARD J. MARKEY (D-MA)
HOUSE COMMERCE COMMITTEE HEARING ON
THE PROPOSED GLOBAL TOBACCO SETTLEMENT
JANUARY 29, 1998**

Thank you Mr. Chairman for holding this important hearing this morning, and for moving forcefully to secure the release of previously secret industry documents.

Nearly four years ago, the Subcommittee on Health and Environment, under the leadership of Rep. Henry Waxman, listened to testimony from tobacco executives in a hearing much like today's. Four years ago, each CEO was asked under oath if they believed that nicotine was addictive or whether they had ever manipulated the level of nicotine in their cigarettes. And four years ago, each said emphatically, "NO!" Mr. Chairman, the evidence we have today strongly suggests they may have misled the public about both matters. In fact, every signatory to the settlement has agreed to place labels on their products which read: "Warning: Cigarettes are addictive."

Today, the question is: do you believe that the settlement gives tobacco companies immunity. Today, some tobacco CEOs, in their written testimony are suggesting the proposed settlement would not provide them with immunity.

History repeats itself. The Tobacco CEOs were being less than truthful four years ago, and they are being less than truthful today.

Despite any protestations to the contrary, Big Tobacco is clearly seeking broad immunity from liability for past or future wrongdoing. In fact, the proposed settlement would terminate existing lawsuits - including all of the present attorney general actions, class action lawsuits, third-party claims, and all other "addiction/dependence" claims.

Where suits are not terminated they will be severely restricted: no punitive damages could ever be assessed based on past conduct, and no class actions could be brought without the defendants' consent. Meanwhile, the industry makes no concessions on liability, causation, assumption of risk, or any other issue. Furthermore, all suits against tobacco-related businesses such as retailers and wholesalers are dismissed and barred for all time, and all claims against insurers are dismissed and barred forever.

In addition to the immunity issue, I will be particularly interested in hearing whether the panel assembled before us can explain some alarming recent developments in Massachusetts, where their companies are fighting tooth and nail to circumvent a new law requiring full disclosure of cigarette ingredients and additives. To date, only the Liggett company has fully complied with the law. I will be interested to hear why the tobacco industry has adopted such a confrontational posture regarding ingredient disclosure in Massachusetts when it purports to support the tough new requirements the proposed settlement would establish in this area.

I am also troubled by recent reports on CBS and in the National Journal which indicate that the tobacco industry is preparing to unleash a \$20 million ad blitz to pressure Congress into accepting their plea for broad immunity from liability for their misdeeds. According to a confidential industry memo I have obtained, one of the principle purposes of this ad campaign is to (quote) "create the basis for an exit strategy, ideally that the industry made a legitimate offer and the politicians played politics and made a mess out of it." (unquote) The existence of this stockpile of unwanted Video Valentines from the Marlboro Man and Joe Camel to America's Soccer Moms raises serious questions about whether the tobacco industry is coming to the table in good faith.

In my view, the job of this Committee must be to construct a national plan which will sharply reduce

smoking by America's youngsters; help the people who want to stop smoking; preserve the ability of States to undertake additional actions where necessary to protect their citizens; and prevent any sweeping legal indemnification of the tobacco industry. National legislation must also include a dramatic increase in the price-per-pack for the industry, and must ensure that the FDA be granted complete, unfettered authority to regulate tobacco and to establish a nicotine reduction strategy, if appropriate. We must also substantially increase the lookback penalties if the tobacco industry does not achieve adequate reductions in teen smoking.

I look forward to exploring some of these issues during the questions and answer period. I thank the Chairman and yield back the balance of my time.